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Supreme Court of the United States

OCTOBER TERM, 1940

No. 287

EARL RUSSELL BROWDER

Petitioner

against

UNITED STATES OF AMERICA

APPENDIX TO BRIEF FOR PETITIONER

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APPENDIX.

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The following abbreviated citation is employed:

Compilation.....Compilation of certain departmental
circulars relating to citizenship, reg-
istration of American citizens, issu-
ance of passports, etc. (1925), Dep't
of State.

APPENDIX TO BRIEF FOR PETITIONER.

AN ACT In reference to the expatriation of citizens
and their protection abroad.

[Public—No. 193—59th Congress; Act of March 2, 1907
(34 Stat. L., 1228).]

SECTION 1. That the Secretary of State shall be authorized, in his discretion, to issue passports to persons not citizens of the United States as follows: Where any person has made a declaration of intention to become such a citizen as provided by law and has resided in the United States for three years a passport may be issued to him entitling him to the protection of the Government in any foreign country: *Provided*, That such passport shall not be valid for more than six months and shall not be renewed, and that such passport shall not entitle the holder to the protection of this Government in the country of which he was a citizen prior to making such declaration of intention.*

*This section was repealed by § 5 of the Act of June 4, 1920 (H. R. 11960).

*Rules Governing the Granting and Issuing of Passports
in the United States*

Issued January 24, 1917.

Passports issued by the Department of State or its diplomatic or consular representatives are intended for identification and protection in foreign countries, and not to facilitate entry into the United States,* immigration being under the supervision of the Department of Labor.**

WOODROW WILSON

The White House,
24 January, 1917.

*See Departmental Circular Instruction and Regulations to same effect, *infra*, pp. 4, 5.

**This provision is likewise contained in the Presidential rules of:

June 7, 1911, rule 4, par. 3;
Nov. 13, 1914, rule 4, par. 3;
Jan. 12, 1915, rule 5, par. 3;
Dec. 17, 1915, rule 6, par. 2;
Apr. 17, 1916, rule 6, par. 2.

[No. 77. General instruction. Consular]

EXPATRIATION

RULE (D) UNDER WHICH THE PRESUMPTION ARISING UNDER SECTION 2 OF THE ACT OF MARCH 2, 1907, MAY BE OVERCOME

The Secretary of State to the American diplomatic and consular officers (including consular agents)

DEPARTMENT OF STATE,
Washington, November 18, 1911.

Gentlemen: In view of the decision of the Attorney General communicated to you in the circular instruction of December 22, 1910, entitled "Expatriation," the following rule (d) is adopted as supplementary to rules (a), (b), and (c) prescribed in circular instruction of April 19, 1907, whereunder the presumption of expatriation arising against a naturalized citizen under the provision of the second paragraph of section 2 of the act of March 2, 1907,* may be overcome, namely, by his presenting to a diplomatic or consular officer proof establishing the following fact:

*Section 2 reads as follows:

"Section 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however,* That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: And *Provided, also,* That no American citizen shall be allowed to expatriate himself when this country is at war."

(d) That he has made definite arrangements to return immediately to the United States for permanent residence.

When a naturalized citizen against whom the presumption has arisen has failed previously to present evidence sufficient under rules (a), (b), and (c) to overcome it, but applies to a diplomatic or consular officer for a passport such officer should require positive evidence of some kind, besides the man's bare allegation, first, that he intends to return forthwith to this country and has actually made his arrangements to do so, and, second, that his intended return is for permanent residence, and not merely for a temporary visit. In this connection the disposition of his property and effects, the arrangements in regard to his family, if he has one, and the steps taken to obtain passage to the United States are to be considered, and, whenever practicable, the exhibition of the applicant's steamship ticket should be required.

Under the circumstances mentioned a passport may be issued to the person concerned by a diplomatic officer or consular officer authorized to issue emergency passports, if he needs it to enable him to leave the country in which he has been residing or to pass on his way to the United States through a country in which passports are required. A passport should not be issued merely to facilitate entry into the United States.

An emergency passport issued under the conditions mentioned should be limited to a period sufficient to cover the date of embarkation or period of passage and should incite upon its face the object for which it is issued.

I am, etc.,

P. C. KNOX.

[Compilation, pp. 35-36]

Rules of June 1, 1915, governing the granting and issuing of passports to those who have declared their intention to become citizens of the United States*

A passport may be granted to a declarant under the statutory provision quoted above for purposes of identification, and protection in foreign countries; other than his country of origin, but not for the purpose of facilitating reentry into this country. All matters relating to immigration being under the supervision of the Department of Labor, any inquiries concerning the right to reenter the United States should be addressed to that Department.

W. J. BRYAN.

DEPARTMENT OF STATE,

Washington, June 1, 1915.

[For. Rels., 1915 Supp., pp. 906-8]

*Unnumbered Departmental order. Passports are not issued to declarants who are natives of countries which are at war, nor to declarants who intend to visit belligerent countries.

*Title IX of Espionage Act, the Chapter
Relating to Passports.**

AN ACT To punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes.

[Public—No. 24—65th Congress;
H. R. 291.]

TITLE IX

PASSPORTS

Application
requirements.

SECTION 1.¹ Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application duly verified by his oath before a person authorized and empowered to administer oaths, which said application shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance

*The Act included twelve other titles: Title I, Espionage; Title II, Vessels in Ports of the United States; Title III, Injuring Vessels Engaged in Foreign Commerce; Title IV, Interference with Foreign Commerce by Violent Means; Title V, Enforcement of Neutrality; Title VI, Seizure of Arms and other Articles Intended for Export; Title VII, Certain Exports in Time of War Unlawful; Title VIII, Disturbance of Foreign Relations; Title X, Counterfeiting Government Seal; Title XI, Search Warrants; Title XII, Use of Mails; Title XIII, General Provisions.

¹Changes from the wording in the original bill, H. R. 291, introduced in August, 1936, are indicated in the numbered footnotes. Each of the sections in the original bill was preceded by the word "That".

of any such passport. / Clerks of United States courts, agents of the Department of State, or other Federal officials authorized, or who may be authorized, to take passport applications and administer oaths thereon, shall collect, for all services in connection therewith, a fee of \$1, and no more, in lieu of all fees prescribed by any statute of the United States, whether the application is executed singly, in duplicate, or in triplicate.²

Fee limited.

SEC. 2. Whoever shall willfully and knowingly make any false statement in an application for passport³ with intent to induce or secure the issuance⁴ of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws, or who ever shall willfully and knowingly use or attempt to use, or furnish to another for use, any passport the issue of which was secured in any way by reason of any false statement, shall be fined not more than \$2,000 or imprisoned not more than five years or both.

Punishment for false statements in applications.

Using, passports so obtained.

SEC. 3. Whoever shall willfully and knowingly use, or attempt to use, any passport issued or designed for the use of another than himself, or whoever shall willfully and knowingly use or attempt to use any passport in violation of the conditions or restrictions therein contained,

Illegally using passport of another.

Violating restrictions.

²This sentence did not appear.

³The additional words "or otherwise" appeared here.

⁴This word was "issue".

**Delivery to
unauthorized
person.**

**Punishment for
counterfeiting,
forging, etc.,
passports.**

**Using forged,
etc., passports.**

Void passports.

or of the rules prescribed pursuant to the laws regulating the issuance of passports, which said rules shall be printed on the passport⁵; or whoever shall willfully and knowingly furnish, dispose of, or deliver a passport to any person, for use by another than the person for whose use it was originally issued and designed, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 4. Whoever shall falsely make, forge, counterfeit, mutilate, or alter, or cause or procure to be falsely made, forged, counterfeited, mutilated, or altered any passport or instrument purporting to be a passport, with intent to use the same, or with intent that the same may be used by another; or whoever shall willfully or knowingly use, or attempt to use, or furnish to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same, shall be fined not more than⁷ \$2,000 or imprisoned not more than five years, or both.

Approved, June 15, 1917.

[22 U. S. C. §§213, 220-222. Title 22 of the U. S. C. is entitled: Foreign Relations and Intercourse.]

⁵This provision for printing the rules did not appear, i. e., the phrase after the word "passports," to the semi-colon.

⁶This word was "and".

⁷The two words "more than" were the one word "exceeding."

Extracts from Annual Report of Attorney General, 1915

ENFORCEMENT OF NEUTRALITY.

During the last half of the previous fiscal year and the first three or four months of the fiscal year 1915 the work of enforcing neutrality was less than for a number of years, but because of conditions growing out of the European war and troubles on the Mexican border, work of this character thereafter steadily increased, until in the month of June, 1915, it had grown beyond that of any previous month, and it is still increasing.

Among the more important cases instituted are the following:

2. *United States v. Hans Adam Wedel, Carl Ruroede and others*, in which the defendants were indicted for conspiracy to defraud the United States through obtaining passports for the use of German reservists. Von Wedel is a fugitive, Ruroede is serving a sentence of three years' imprisonment, and four others paid fines of \$300 each.

3. *United States v. Richard B. Stoegler, Richard Madden, and Gustave Cook*, in which the men named were indicted for conspiracy to defraud the United States through the procuring for Stoegler's use as a German agent a passport in the name of Madden. Stoegler was sentenced to 60 days' imprisonment and Madden and Cook to 10 months each.

RECOMMENDATIONS BY THE ATTORNEY GENERAL

For

LEGISLATION AMENDING THE CRIMINAL AND OTHER LAWS OF
THE UNITED STATES WITH REFERENCE TO NEUTRALITY
AND FOREIGN RELATIONS

To the—

*Chairman of the Committee on Foreign Relations of
the Senate.**Chairman of the Committee on the Judiciary of the
Senate.**Chairman of the Committee on Foreign Affairs of the
House of Representatives.**Chairman of the Committee on the Judiciary of the
House of Representatives.*

The following recommendations for new legislation are made as a result of the experience of the Department of Justice and of the State Department during the past three years in the administration of law in connection with the relations of this country with Mexico and with the problems arising out of the European war.

Many acts committed in the United States in serious violation of its sovereignty and against its peace and the safety of its citizens are not now punishable by any Federal criminal law; others are punishable only under unsatisfactory statutes passed in relation to conditions altogether different from those now prevailing.

The present laws relating to neutrality are clearly defective. In some cases, no statutory provision whatever is made for the observance of obligations imperatively imposed by international law upon the United States; in other cases, inadequate provision is made.

In my opinion, the passage of the new legislation herewith submitted is required for the protection of the United

States and its citizens and for the fulfillment of the duty owed by the United States to other nations with which it is at peace.

The general recommendations set forth in this memorandum have been submitted to the State Department and have been concurred in by the Secretary of State and by the Joint State and Navy Neutrality Board. I am submitting herewith drafts of proposed bills to carry out these recommendations.

T. W. GREGORY,
Attorney General.

V.

(a) An Act requiring applications for passports to be under oath, and authorizing the Secretary of State by regulation to require proof by affidavit of such facts as he may deem desirable, and making false statements in any such application or affidavit, perjury;

(b) An Act making criminal the fraudulent obtaining, transfer, or use of passports, and the alteration or forgery of passports issued.

NOTE.—(a) It is desirable that there should be further specific legislation relative to oaths and perjury in passport applications. Heretofore, oaths have been required under the general authority of the President to prescribe rules given in the Act of June 14, 1902, and under the recognition of the possibility of such oaths in Revised Statutes, section 212. See also Revised Statutes, section 4075.

A question has been raised whether a false statement in oaths so required constitutes perjury within the purview of Penal Code, section 125.

(b) There should be punishment for the person who fraudulently obtains or fraudulently uses a passport.

VI.

An Act making criminal the fraudulent use, or application, or counterfeiting of the seal of any Executive Department or Government commission.

NOTE.—The seal of the State Department has been misused in connection with passport frauds.

[Recommendation, pp. 3, 17.]

Extracts from Annual Report of Attorney General, 1916

I also submit the following additional recommendations:

1. **CHANGES IN LAWS AFFECTING NEUTRALITY AND FOREIGN RELATIONS.**

From the experience of this department and of the State Department during the past three years in the administration of law in connection with the relations of this country with Mexico and with the problems arising out of the European war, it has become clear that there is urgent need of a revision of the statute law bearing on our international relations.

Many acts committed in the United States in serious violation of its sovereignty and against its peace and the safety of its citizens are not now punishable by any Federal criminal law; others are punishable only under unsatisfactory statutes passed in relation to conditions altogether different from those now prevailing.

The present laws relating to neutrality are clearly defective. In some cases no statutory provision whatever is made for the observance of obligations imperatively imposed by international law upon the United States; in other cases inadequate provision is made.

In my opinion, the passage of the following new legislation is required for the protection of the United States and its citizens and for the fulfillment of the duty owed by the United States to other nations with which it is at peace.

The general recommendations now made have been submitted to the State Department and have been concurred in by the Secretary of State and by the Joint State and Navy Neutrality Board. On June 3, 1916, I addressed letters to the chairman of the following congressional committees: Committee on Foreign Relations of the Senate, Committee on the Judiciary of the Senate, Committee on Foreign Affairs of the House of Representatives, Commit-

tee on the Judiciary of the House of Representatives, transmitting a printed memorandum of these recommendations, accompanied by drafts of proposed bills to carry them out. I can not too strongly urge the immediate enactment of these bills (pp. 12-13).*

ENFORCEMENT OF NEUTRALITY.

During the past year (as in the previous year and since August, 1914), the regular work of the department has been tremendously augmented by the legal problems connected with the European war. Many of the questions presented in the prosecutions initiated and in opinions rendered to other departments of the Government have been without precedent. The labors of the special agents of the Bureau of Investigation have been very great and country-wide in investigating reported breaches of our neutrality and other criminal laws arising out of war conditions. Careful daily scrutiny of agents' reports has been necessary in order that prompt measures might be taken to prosecute such violations of Federal law. Many of the actions investigated, however, have been found to constitute violations of State rather than Federal laws. The inadequacy of our Federal criminal laws relative to neutrality and foreign relations and the necessity for their complete revision have been clearly proved.

Since the beginning of the European war, over 30 indictments have been found in various parts of the country, and upward of 110 persons have been indicted. Within the past year, 15 indictments, involving 84 persons and corporations, were returned and 21 persons and corpora-

*This Report (pp. 16-17) incorporates verbatim the recommendations of the Attorney General which appear *supra* pp. 11-12 and which were forwarded in June to the House and Senate Committees on Judiciary and Foreign Relations with H. R. 291 and S. 6797. This Report was dated December 4, 1916.

tions were convicted. Most of the plots against our laws were so carefully laid as to render it extremely difficult to obtain evidence. There has at no time, however, been any relaxation in the effort to enforce the law rigorously and impartially and regardless of the nationality of the persons involved.

Among the more important cases are the following:

• • • • •
11. *United States v. Harry Max Zelinka and others.*—Zelinka plead guilty to a charge of conspiracy to defraud the United States in the securing of an American passport, he being an Austrian citizen. He was sentenced to pay a fine of \$200 and to imprisonment for one week.

• • • • •
13. *United States v. Franz Rintelin and Andrew D. Meloy.*—In this case the defendants are under indictment for conspiracy to defraud the United States because of efforts made to obtain an American passport for the former, who is a German naval officer, who was in this country on a secret mission.

• • • • •
[1916 Report, pp. 12, 13, 52-54]

*Extracts from Annual Report of Attorney General, 1917*4. PUNISHMENT FOR VIOLATION OF PRESIDENT'S
PROCLAMATION.

Legislation should be enacted defining as a criminal offense a willful violation of the presidential proclamations relating to alien enemies promulgated under section 4067 of the Revised Statutes and providing appropriate punishment.

5. REGULATION OF ENTRY AND DEPARTURE OF PERSONS
FROM UNITED STATES

I recommend the passage of a law conferring on the President power to regulate or provide for the regulation of the entry and departure of all persons, both citizens and aliens, to and from the United States and its possessions during a state of war (p. 16).

WAR ACTIVITIES.

1. NEUTRALITY AND OTHER CRIMINAL CASES CONNECTED
WITH THE EUROPEAN WAR.

Vigorous prosecution has been made of all cases involving violations of our neutrality and German criminal activities in this country in connection with the European war. In every such case tried, the Government has secured a conviction of at least some of the defendants. This should serve to discourage attempts of foreign sympathizers to use this country as a base for illegal operations designed to attack another country with which the United States is at peace.

Among the more important cases were the following (p. 50):

16. *United States v. Franz von Rintelen and Andrew D. Meloy*.—In this case the defendants are under indictment in New York for conspiracy to defraud the United States in connection with use by Rintelen, a German agent, of false passports in leaving this country. The case is pending.

17. *United States v. Franz Rintelen*.—Two further indictments are pending in New York for perjury and forgery in connection with defendant's false passport (p. 52).

In order to make the showing more complete it may be stated that the following convictions were obtained prior to June 30, 1916, in cases arising out of the European war:

28. *United States v. Zelinka et al.*—Defendant sentenced to imprisonment for one week and to pay a fine of \$200 for conspiracy to defraud in connection with a false passport.

29. *United States v. Hans Adam von Wedel, Ruroede, et al.*—Defendant Ruroede sentenced for three years at Atlanta, and others were fined \$300 each for conspiracy to defraud in connection with false passports. Von Wedel, a German officer, became a fugitive and is supposed to have been drowned in a German submarine attack.

30. *United States v. Stoegler et al.*—Defendants Madden and Cook sentenced to 10 months and Stoegler to 60 days in jail for conspiracy to defraud in connection with false passports (p. 53).

4. WAR LEGISLATION.

During February 1917, the department was asked for advice in reference to the so-called espionage bill, which was passed by the Senate February 20. This bill was framed by combining the various bills as to foreign relations and neutral obligations of the United States, which had been recommended by the Attorney General in May, 1916, and which, with the reasons for their adoption, are set forth at length in his last annual report. To these bills was added an espionage measure. This combined statute was popularly given the title of the "Espionage act," although the espionage feature was not in reality the most important portion of the bill. After being amended, the bill passed the Senate and was reported to the House, but was not acted upon. A new draft, with changes suggested by this department,* was introduced in the Sixty-fifth Congress, and after being amended was enacted into law June 15, 1917. Its many important and sorely needed provisions will provide greater protection to the interests of the United States in times of peace, and will also enable the Federal Government in the preparation for and successful carrying on of the war . . . (p. 73).

[1917 Report, pp. 16, 50, 52, 53, 73]

*[See pp. 28-31, *infra*.]

State Department Circular Instruction of March 26, 1923.

[No. 885. General instruction. Consular. (Diplomatic
Serial No. 187)]

CANCELLATION OF EXPIRED AMERICAN PASSPORTS

DEPARTMENT OF STATE,
Washington, March 26, 1923.

To the American Diplomatic and Consular Officers.

GENTLEMEN: The second page of American passports bears the following notice:

This passport is valid for a period of twelve months and expires unless previously extended. It is subject to one or more extensions, provided the final date of expiration is not later than two years after the date of its issuance.

Section 4, Title IX of the espionage act states that—

* * * whoever shall willfully or knowingly use or attempt to use * * * any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

It is known that many naturalized American citizens, especially those of European origin, continue to use American passports long after the expiration of their maximum period of validity. A still more serious offense is the continued use of passports which have been specifically limited as to validity. For example, the department occasionally limits a passport because of conditions peculiar to the case,

or on the sworn statement of the applicant that he will return to the United States within the designated period. In cases of that class, the department intends that the protection of this Government should not be extended to the holders of the passports after the determination of their validity, unless such validity is extended by the department to some future date.

Expired departmental, insular, or emergency passports which come into your hands in the course of business, and are not susceptible of further extension, should be canceled by cutting out a part of the seal and by writing the word "canceled" in large letters across the face of the passport. The date of the cancellation and the signature and title of the canceling officer should be added after the word "canceled." The department believes that this procedure would work no hardship upon the bearer of a canceled passport, because if he is a traveler he should hold a valid passport, and if he has a fixed residence abroad, a registration certificate would usually be sufficient for his purposes.

There may occasionally come to your attention a passport which has expired under circumstances making it impossible for the holder to replace it by a valid passport. This may be true in cases of physical disability or in cases where the holder of the passport lives in a region remote from a consulate or a mission and in such cases the expired passport need not be canceled until a new passport is received or refused. However, a notation should be made on the application for a new passport showing why the expired passport was not canceled.

I am, gentlemen,

Your obedient servant,

For Secretary of State:

ALVEY A. ADEE.

*Rules Governing the Granting and Issuing of Passports in
the United States*

Issued March 31, 1938

124. The Secretary of State is authorized in his discretion to refuse to issue a passport, to restrict a passport for use only in certain countries, to restrict it against use in certain countries, to withdraw or cancel a passport already issued, and to withdraw a passport for the purpose of restricting its validity or use in certain countries.

125. Should a person to whom a passport has been issued knowingly use or attempt to use it in violation of the conditions or restrictions contained therein or of the provisions of these rules, the protection of the United States may be withdrawn from him while he continues to reside abroad.

FRANKLIN D. ROOSEVELT

The White House,
March 31, 1938.

[3 F. R. 681]

*House Report No. 30, Sixty-Fifth Congress, First Session,
to Accompany H. R. 291 (Act of June 15, 1917)**

TO PUNISH ESPIONAGE AND ENFORCE THE CRIMINAL LAWS
OF THE UNITED STATES.

April 25, 1917.—Referred to the House Calendar and
ordered to be printed.

Mr. Webb, from the Committee on the Judiciary, submitted
the following

REPORT

[To accompany H. R. 291.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 291) to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes, report the same back with the recommendation that the bill be amended as follows, and that, as amended, it do pass.

Amend by striking out all after the enacting clause and insert in lieu of the language stricken out the following:

TITLE VIII.

PASSPORTS.

SEC. 800. Before a passport is issued to any person by or under authority of the United States, such person shall

*See supra, pp. 6-8.

subscribe to and submit a written application duly verified by his oath before a person authorized and empowered to administer oaths, containing a true recital of every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. Officials authorized, or who may be authorized, to take passport applications and administer oaths thereon, shall collect, for all services in connection therewith, a fee of \$1, and no more, in lieu of all fees prescribed by any statute of the United States, whether the application is executed singly, in duplicate, or in triplicate.

SEC. 801. Whoever willfully and knowingly makes any false statement in an application for passport, with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or whoever willfully and knowingly uses or attempts to use, or furnishes to another for use, any passport the issue of which was secured in any way by reason of any false statement, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 802. Whoever willfully and knowingly (a) uses, or attempts to use, any passport issued or designed for the use of another than himself, or (b) uses, or attempts to use, any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports, which said rules shall be printed on the passport; or (c) furnishes, disposes of, or delivers a passport to any person for use by another than the person for whose use it was originally issued and designed, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

SEC. 803. Whoever makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent to use it, or with intent that it may be used by another; or whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

* * * *

The general legislation contained in the amended bill is a result of the recommendations of the Department of Justice and the State Department, and these recommendations were made as a result of the experiences of these departments during the past three years in the administration of law in connection with the relations of this country with Mexico and with problems arising out of the European war.

The Attorney General, in transmitting these recommendations, says:

Many acts committed in the United States in serious violation of its sovereignty and against its peace and the safety of its citizens are not now punishable by any Federal criminal law; others are punishable only under unsatisfactory statutes passed in relation to conditions altogether different from those now prevailing. The present laws relating to neutrality are clearly defective. In some cases no statutory provision whatever is made for the observance of obligations imperatively imposed by international law upon the United States; in other cases inadequate provision is made. In my opinion the passage of the new legislation herewith submitted is required for the protection of the United States and its citizens and for the fulfillment

of the duty owed by the United States to other nations with which it is at peace.*

* For convenience of reference the committee has substituted for the word "chapter" wherever it appears in the bill the word "title". The committee, in framing the espionage title, have endeavored to avoid making innocent acts criminal and, therefore, in Title I, sections 1 and 2, the criminality of the act is made to depend upon the knowledge, intent, or reason to believe that the information obtained or transmitted concerning our national defense is to be used to the injury of the United States.

Section 3 of this title punishes an officer or trustee of our national defense secrets who wilfully communicates such secrets to a person not lawfully entitled to receive them and punishes such person if he through gross negligence permits any document, etc., to be lost or stolen, etc.

Section 4 of Title I gives the President the power, during national emergency resulting from a war to which the United States is a party, or from threat of such war, to proclaim the existence of such emergency, and thereupon by proclamation to prohibit the publishing or communicating of or the attempting to publish or communicate any information relating to national defense which, in his judgment, is of such character that it is or might be useful to the enemy.

This section in the bill has been carefully and patiently considered by the committee. The committee realize that the section as recommended gives the President broad powers, but it must be admitted by all patriotic persons anxious for the success of our arms that in times like these through which we are now going it is important that the Commander in Chief shall have authority to prevent the publication of national defense secrets, which would be useful to the enemy and, therefore, harmful to the United

*See Recommendations of the Attorney General, *supra*, pp. 10-11.

States. We feel confident that the President will not abuse this authority but will exercise it in the spirit in which it is given, by safeguarding the public welfare by preventing our vital national defense secrets from falling into the hands of the enemy. We believe that the public and the newspaper world will heartily co-operate with the President and the Congress in attaining this worthy end. The proviso in this section is hardly necessary to be written into the bill, but for the purpose of assuring the public and the newspaper fraternity that nothing in the President's proclamation shall limit or restrict discussion, comment, or criticism of the acts or policies of the Government or of its representatives the clause is inserted.

Section 5 of Title I makes it a crime for any person to willfully convey false reports or statements with the intent to interfere with the operation or success of the military and naval forces of the United States, or to promote the success of the enemy, and for anyone in time of war to willfully cause, or attempt to cause, insubordination, disloyalty, or refusal of duty in the military or naval forces. The committee feel that no patriotic American will ever attempt willfully to violate the provisions of this section.

The remaining sections of the title are self-explanatory and need not be elaborated upon in this report. The committee feel that all the remaining sections [*i. e.*, the non-espionage sections] of the amended bill are drawn with sufficient clearness to be self-explanatory, and the committee is confident that the House will realize the importance of the passage of each section of the amended bill, and therefore recommend that the bill as amended and reported herein be passed.

Congressional Record

64TH CONGRESS, 2ND SESSION.

[S. 8148 (Act of June 15, 1917)]

Pages 3412-3

Senate—February 16, 1917.

CHAPTER IV.

[S. 6797.]

To regulate and safeguard the issuance of passports, and to prevent and punish the fraudulent obtaining, transfer, use, alteration, or forgery thereof.*

SECTION 1. Before a passport is issued to any person by, or under authority of, the United States, such person shall subscribe to and submit a written application duly verified by his oath before a person authorized and empowered to administer oaths, which said application shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport.

SEC. 2. Whoever shall willfully and knowingly make any false statement in an application for passport or otherwise, with intent to induce or secure the issue of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or whoever shall willfully and knowingly use, or attempt to use, or furnish to another for use any passport, the issue of

*See Recommendations of the Attorney General, *supra*, p. 11 to the same effect.

which was secured in any way by reason of any false statement, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 3. Whoever shall willfully and knowingly use, or attempt to use, any passport issued or designed for the use of another than himself, or whoever shall willfully and knowingly use or attempt to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports; or whoever shall willfully and knowingly furnish, dispose of, or deliver a passport to any person, for use by another than the person for whose use it was originally issued and designed, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

Mr. Overman Mr. President, I desire to introduce two amendments that have been suggested to that chapter, and ask to have read a letter from the Attorney General on the subject.

The amendments and letter above referred to are as follows:

1. Page 12, lines 4 and 5, strike out "a person authorized and empowered to administer oaths" and insert in lieu thereof the following: "such persons as may be designated by the President or by the Secretary of State to administer such oaths."
2. Insert, at the end of section 1 on page 12, the following:

"Clerks of United States courts, agents of the Department of State, or other Federal officials authorized

or who may be authorized to take passport applications and administer oaths thereon, shall collect for all services in connection therewith a fee of \$1, and no more, in lieu of all fees prescribed by any statute of the United States, whether the application is executed singly, in duplicate, or in triplicate."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., February 12, 1917.

Hon. C. A. CULBERSON,
Chairman Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: The State Department has just presented to me two minor additions which it says are very essential to the bill originally S. 6797, now chapter 4 of the committee print neutrality bill, relative to passports:

1. To amend lines 4 and 5, page 12, so as to read as follows:

"His oath before such persons as may be designated by the President or by the Secretary of State to administer such oaths, which said application shall contain a true."

2. To insert, at the end of section 1, on page 12, the following:

"Clerks of United States courts, agents of the Department of State, or other Federal officials authorized or who may be authorized to take passport applications and administer oaths thereon, shall collect for all services in connection therewith a fee of \$1, and no more, in lieu of all fees prescribed by any statute of the

United States, whether the application is executed singly, in duplicate, or in triplicate."

The object of this addition is to clear up a situation which now exists. At present clerks of courts are the officials designated by the President, through the Secretary of State, to take passport applications and administer oaths. Under the present fee system there is a great variance in the practice of these clerks of courts, and many of them, it has been found, charge fees which are quite exorbitant, but which seem to be lawful under the present statutes. The fees charged, it has been found, have varied from \$1.50 to \$6. The Chief of the Citizenship Bureau of the State Department and the Chief of the Division of Accounts in this department, both of which gentlemen have had long experience in these matters, have come to the conclusion that a fee of \$1 is ample in such cases and that larger fees are or may be an unnecessary hardship on citizens applying for passports.

This is a matter which has been presented to my attention for the first time to-day, and was not considered by me or, apparently, by the State Department when the final draft of the bill on this subject was submitted to it.

Respectfully,

T. W. GREGORY,
Attorney General.

The Secretary resumed the reading of the proposed substitute, as follows:

SEC. 4. Whoever shall falsely make, forge, counterfeit, mutilate or alter, or cause or procure to be falsely made, forged, counterfeited, mutilated, or altered any

passport or instrument purporting to be a passport, with intent to use the same, or with intent that the same may be used by another; or whoever shall willfully and knowingly use, or attempt to use, or furnish to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same, shall be fined not exceeding \$2,000 or imprisoned not more than five years, or both.

AN ACT To prevent in time of war departure from or entry into the United States contrary to the public safety.

[Public—No. 154—65th Congress;
H. R. 10264.]

Foreign travel.
Acts of, made
unlawful during
time of war.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this Act be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful—

Aliens violating
prescribed rules.

(a) For any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe;

Transporting
prohibited
persons.

(b) For any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this Act;

Making false
application for
permits.

(c) For any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use; **Furnishing false permits, etc.**

(e) For any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use; **Using permit of another person.**

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States; **Forging, etc., permits.**

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid. **Using false, etc., permits.**

SEC. 2. That after such proclamation as is provided for by the preceding section has been made and published, and while said proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter or attempt to depart from or enter the United States unless he bears a valid passport. **Passports required for all entries and departures of citizens.**

**Punishment
for violation.**

SEC. 3. That any person who shall willfully violate any of the provisions of this Act, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than twenty years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

**Forfeiture
of vehicle,
vessel, etc.**

**Meaning
of terms:**

"United States."

SEC. 4. That the term "United States" as used in this Act includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"Person."

The word "person" as used herein shall be deemed to mean any individual, partnership, association, company, or other unincorporated body of individuals, or corporation, or body politic.

Approved, May 22, 1918.

[22 U. S. C. §§223-226]

AN ACT To regulate further the entry of
aliens into the United States.

[Public—No. 79—66th Congress;
H. R. 9782.]

*Be it enacted by the Senate and House
of Representatives of the United States
of America in Congress assembled, That* Entry of aliens.
Restrictions
imposed on.
if the President shall find that the public
safety requires that restrictions and pro-
hibitions in addition to those provided
otherwise than by this Act be imposed
upon the entry of aliens into the United
States, and shall make public proclamation
thereof, it shall, until otherwise ordered
by the President or Congress, be unlaw-
ful—

(a) For any alien to enter or attempt Aliens violating
to enter the United States except under prescribed rules.
such reasonable rules, regulations, and
orders, and subject to such passport, visé,
or other limitations and exceptions as the
President shall prescribe;

(b) For any person to transport or at- Transporting
tempt to transport into the United States prohibited
another person with knowledge or reason- persons.
able cause to believe that the entry of such
other person is forbidden by this Act;

(c) For any person knowingly to make Making false
any false statement in an application for applications for
a passport or other permission to enter the passports, etc.
United States with intent to induce or
secure the granting of such permission,
either for himself or for another;

Furnishing
viséed passport
of another
person.

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a viséed passport or other permit or evidence of permission to enter, not issued and designed for such other person's use;

Using viséed
passport of
another.

(e) For any person knowingly to use or attempt to use any viséed passport or other permit or evidence of permission to enter not issued and designed for his use;

Forging, etc.,
passports.

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any passport, visé or other permit or evidence of permission to enter the United States;

Using false,
etc., passports.

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered passport, permit, or evidence of permission, or any passport, permit or evidence of permission which, though originally valid, has become or been made void or invalid.

Punishment
for violations.

SEC. 2. That any person who shall willfully violate any of the provisions of this Act, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished

Corporation
official
participating
therein.

by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

Forfeiture
of vehicle,
vessel, etc.

* * * * *

SEC. 5. That this Act shall take effect upon the date when the provisions of the Act of Congress approved the 22d day of May, 1918, entitled "An Act to prevent in time of war departure from and entry into the United States, contrary to the public safety," shall cease to be operative, and shall continue in force and effect until and including the 4th day of March, 1921.

Effective on
termination of
previous act.

Duration.

Received by the President, October 29, 1919.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

[This Act never became operative]

House Report No. 382, Sixty-Sixth Congress, First Session, to Accompany H. R. 9782 (Act of November 10, 1919)

EXTENSION OF PASSPORT CONTROL

OCTOBER 14, 1919.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ROGERS, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. R. 9782.]

The Committee on Foreign Affairs, to which was referred the bill (H. R. 9872) to regulate further the entry of aliens into the United States, having had the same under consideration, reports it back to the House with certain amendments with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The amendments are as follows:

Page 3, line 7, strike out "\$10,000" and insert "\$5,000."

Page 3, line 8, strike out "twenty" and insert "five."

Your committee, in considering legislation of this character, has had the benefit of the testimony of the Secretary of State, of Hon. Wilbur J. Carr, Director of the Consular Service, and of R. W. Flournoy, Jr., Chief of the Division of Passport Control of the State Department. Hon. Albert Johnson, of Washington, the author of House joint resolution 205, for which the present bill is in the nature of a substitute, also appeared before the committee in behalf of legislation of this character.

The act of Congress entitled "An act to prevent in time of war departure from and entry into the United States contrary to the public safety," approved May 22, 1918,

established a strict system of passport control for all travelers to and from the United States, whether American citizens or not. By its terms, this act ceases to be operative with the termination of the present war. The recommendation of the Secretary of State is to the effect that so far as persons entering the United States, whether American citizens or aliens, are concerned, the act should, for the national welfare, be extended for a period of one year beyond the termination of the war. Your committee, after careful consideration, has decided that, in spite of certain administrative difficulties, it is wiser not to extend the act in so far as the controlling of American citizens is concerned. On the other hand, your committee has been fully convinced that urgent considerations of public welfare make desirable the extension of the act so far as incoming aliens are concerned for the period of at least one year.

It will be noted that the existing act is applicable to four classes of persons: (1) Outgoing Americans, (2) outgoing aliens, (3) incoming Americans, and (4) incoming aliens.

The recommendation of the State Department, as previously stated, was that control over the first two classes should cease with the promulgation of the treaty of peace. Your committee agrees with this conclusion, but goes further and recommends that the third class—incoming Americans—be also freed from restraint or control when the present war technically comes to an end.

The Secretary of State testified that for some time—probably for some years—the other great Governments of the world would doubtless continue in effect the very rigid passport requirements which have prevailed since 1914. This being true, it is quite probable that American travelers abroad will, as a matter of common precaution, and as a practical matter, need passports after the present law lapses; but your committee, while fully recognizing this fact, felt that so far as our own legislation was concerned, the control of the movements of American citizens desiring to travel abroad should again become unhampered and unembarrassed at the earliest possible moment.

The bill recommended by your committee follows almost verbatim the language of the present act. The only changes of consequence are the following:

(1) Whereas the present act ~~imposes~~ a penalty for violation of not more than \$10,000 fine, or not more than 20 years' imprisonment, your committee recommends a maximum of \$5,000 fine and 5 years' imprisonment. This recommendation is upon the theory that the very drastic penalties provided in the present act were made to meet war conditions and war emergencies, and that as the proposed bill becomes operative only with the arrival of peace, the original penalties may safely and properly be greatly reduced.

(2) Section 2 of the original act, which dealt with the movements of American citizens, is altogether eliminated for reasons above indicated.

.

(4) Section 5 of the bill provides that it shall take effect when the provisions of the present act cease to be operative and shall continue in force and effect for one year thereafter.

The first section of the bill provides that it may cease to become operative within the year, if so ordered either by the President or by Congress.

The reasons for continuing passport control in the case of incoming aliens for at least one year seem to your committee to be numerous and compelling. As stated by Secretary Lansing, it is recommended by the Department of State "because of the great unrest and disorder throughout Europe at the present time, and the fact that many persons are seeking admission to the United States, of whom a large number seem to be unsuitable for future citizenship or else are engaged in very radical propaganda against our institutions."

An Act Making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1922.

[Public—No. 357—66th Congress; H. R. 15872.*]

EXPENSES, PASSPORT CONTROL ACT.

For expenses of regulating entry into the United States, in accordance with the provisions of the Act approved May 22, 1918, and of this Act, to be immediately available, \$600,000: *Provided*, That the provisions of the Act approved May 22, 1918, shall, in so far as they relate to requiring passports and visés from aliens seeking to come to the United States, continue in force and effect until otherwise provided by law.

Approved, March 2, 1921.

[22 U. S. C. §227]

*See War Act of 1918, *supra*, pp. 32-4.

AN ACT

To increase passport fees, and for other purposes.

[Public—No. 136—72d Congress; H. R. 9393]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes," approved July 3, 1926, as amended by the Act entitled "An Act to provide for the renewal of passports," approved July 1, 1930, is amended to read as follows:

"SEC. 2. That the validity of a passport or passport visa shall be limited to a period of two years, *Provided*, That a passport may be renewed under regulations prescribed by the Secretary of State for a period, not to exceed two years, upon payment of a fee of \$5 for such renewal, but the final date of expiration shall not be more than four years from the original date of issue: *Provided further*, That the Secretary of State may limit the validity of a passport, passport visa, or the period of renewal of a passport to less than two years: *Provided further*, That the charge for the issue of an original passport shall be \$9."

Approved, May 16, 1932.

[22 U. S. C. §217a]

Miscellaneous

Excerpts From Letter of Secretary of State William J. Bryan, Dated January 20, 1915, in Answer to a Letter of the Chairman of the Senate Committee on Foreign Relations, William J. Stone.

(12) *Great Britain and her allies are allowed without protest to disregard American citizenship papers and passports.*

American citizenship papers have been disregarded in a comparatively few instances by Great Britain, but the same is true of all the belligerents. Bearers of American passports have been arrested in all the countries at war. In every case of apparent illegal arrest the United States Government has entered vigorous protests with request for release. The Department does not know of any cases, except one or two, which are still under investigation; in which naturalized Germans have not been released upon representations by this Government. There have, however, come to the Department's notice authentic cases in which American passports have been fraudulently obtained and used by certain German subjects.

The Department of Justice has recently apprehended at least four persons of German nationality who, it is alleged, obtained American passports under pretense of being American citizens and for the purpose of returning to Germany without molestation by her enemies during the voyage. There are indications that a systematic plan had been devised to obtain American passports through fraud for the purpose of securing safe passage for German officers and reservists desiring to return to Germany. Such fraudulent use of passports by Germans themselves can have no other effect than to cast suspicion upon Amer-

ican passports in general. New regulations, however, requiring among other things the attaching of a photograph of the bearer to his passport, under the seal of the Department of State, and the vigilance of the Department of Justice, will doubtless prevent any further misuse of American passports.*

[For. Rels., 1914 Supp., p. xii]

*Quoted in letter of State Department Counselor Frank L. Polk to Representative John J. Fitzgerald, dated August 18, 1916 (For. Rels., 1915 Supp., pp. 913-4).

*United States Committee on Public Information, German
Plots and Intrigues in the United States During the
Period of Our Neutrality (July, 1918).*

III. ATTEMPTS TO GIVE GERMANY MILITARY AID

FORGERY OF PASSPORTS

The third chief purpose of Germany's diplomatic officials in the United States was to send troops and munitions to the Central Empires. When the war began in July, 1914, large numbers of German reservists were living in America, and in order to avoid capture on their way home many of them sought under false names to obtain passports as American citizens. They thus violated the law that American passports shall be issued only to citizens of the United States, and also discredited genuine passports, thereby causing delay and distress to American citizens abroad. Their action also was a violation of America's neutrality and endangered its national honor and safety.

In order to have at hand an adequate supply of counterfeit passports the German Embassy maintained an office in New York City, directed by Captain von Papen, where they were forged by wholesale. German consuls in distant cities, as Chicago and St. Paul, were informed concerning this office and sent there for passports the reservists from their several localities.

These operations were known almost from the first to the United States Secret Service. Hans A. von Wedell, who managed the office, took alarm and fled in November, 1914, supplied with money by von Papen. In the following letter, found on one of his associates who was arrested before he had an opportunity to post it, von Wedell exonerates himself from the charge of deserting his post and shows the complicity of the German Ambassador in the business of forging passports:

*His Excellency, The Imperial German Ambassador,
Count von Bernstorff, Washington, D. C.:*

... My work was done. At my departure, I left the service well organized, and worked out in minute detail, in the hands of my successor, Mr. Karl Ruroede, picked out by myself. . . . Also, Ruroede will testify to you that without my preliminary labors, it would be impossible for him, as well as for Mr. von Papen, to forward officers in any way whatever. [He then explains in detail his reason for hiding.] . . . Ten days before my departure I learned from a telegram sent me by Mr. von Papen . . . that Dr. Starck had fallen into the hands of the British. That gentleman's forged papers were liable to come back and could . . . be traced to me. Mr. von Papen had repeatedly and urgently ordered me to hide myself. Mr. Igel told me that I was taking the matter altogether too lightly, and that I ought, for God's sake, to disappear. . . .

With expressions of the most exquisite consideration,
I am your Excellency's,

Very respectfully,

(Signed) HANS ADAM VON WEDELL

The connection of von Wedell with the German Embassy in the United States is further shown by the following entry in the checkbook of Captain von Papen:

1914			
Nov. 21.	A. von Wedell		\$300
" 24.	(for Wedell)		240
" 27.	(for Wedell)		150
" 30.	Wedell		500
Dec. 5.	Wedell		500
" 8.	Wedell (journey money)		300
" 22.	von Wedell		800

Karl Ruroede at once took up von Wedell's work in a different office. He was under the constant surveillance of Secret Service men, one of whom entered his employ and made frequent reports, from one of which an extract follows, concerning conversations with Ruroede:

"You say, von Wedell spent \$3500 of his own money?" I asked. "No, no, he got it from the fund." "Well, who puts up this fund?" "The Government." "The German Government?" I asked. "Yes," said Ruroede. "You see, there is a German captain here who is attached to the German Embassy at Washington. He has a list of German reservists in this country, and is in touch with the German consulates throughout the country, and in Peru, Chile, Mexico, etc. He communicates with them, and the consuls send reservists on to New York. On their arrival the Captain tells them . . . 'Go down and see Ruroede.' Sometimes he gives them his card. . . . He draws on this fund for \$200 or \$300 or \$1000, whatever he needs, and the checks read, 'On account of Reserves.' You see they have to have food and clothing, so there's nothing to show that the money is used for passports. . . . I meet the captain once a week . . . and he gives me whatever money I need. . . . You know there must be no letters, no accounts, nothing in writing."

"If things work out all right now," he said, "we shall be good for three or four hundred passports, and no telling how many more."

When the Norwegian steamer *Bergensfjord* sailed on January 2, 1915, she had on board four German reservists, all of whom were provided with American passports by Ruroede, who had unknowingly obtained them from a United States Secret Service man. As the big liner dropped down the bay she was followed by a United States Revenue Cutter with Federal officers. At quarantine they

boarded the steamer, arrested the reservists, and brought them back to New York. Ruroede also was arrested, pleaded guilty at his trial, and was sentenced to three years in the Federal penitentiary at Atlanta. The reservists, guilty of forgery, were punished by fines of \$200 each. Charles A. Oberwager was Ruroede's counsel, and under date of January 6, 1915, Captain von Papen's checkbook contained the following entry: "(For Oberwager) \$2000."

German agents in Chicago were making a similar use of American passports. A German reservist reported the following conversation with G. H. Jacobsen, who was implicated in many criminal undertakings in aid of Germany:

Jacobsen told me that an officer who had someone else's citizenship [passport] had shipped for Germany, and when he reached Holland the papers would be delivered to some German agent and sent back, and I could then use them to leave the United States.

Jacobsen obtained citizenship papers for the use of German officers from members of the German Club; and when the description did not fit the person who was to use it, a German printer in Chicago made the description fit by changing it.

There are many cases, from which the following are a selection, in which American passports were fraudulently procured and used for unneutral purposes. Captain Boy-Ed, Richard P. Stegler, a German citizen, Richard Madden, and Vincent Cook secured through conspiracy an American passport to be used by Stegler while serving as a spy in Europe. Boy-Ed financed and directed Stegler's operations, but was protected from prosecution by his diplomatic immunity. Madden and Cook were sentenced to ten months and Stegler to sixty days in jail.

Albert Sanders and Charles Wunnenberg, German agents in this country, have pleaded guilty in New York to the charge of sending German spies to England equipped with

American passports. Gess D. Berko, an American citizen, secured an American passport which was stolen by Stephan Csiszar, an attaché of the Austrian-Hungarian Consulate at New York City, to return to Austria.

The diplomatic officials of Germany hired American citizens protected by genuine passports to use them for dishonorable and unneutral purposes, such as to carry German dispatches and to act as spies in England. E. G. Woodford, for example, who was sent to Europe by German officials here, was paid \$550 for his services on orders from Berlin. The payments to him are recorded in the cashbook of Wolf von Igel.

[Pages 35-38]